

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPEAL)	FINDINGS OF FACT,
OF MR. & MRS. EDWARD V. FRYER)	CONCLUSIONS OF LAW &
)	ORDER
)	
)	OSPI 61-83

* * * * *

This matter has been submitted to the State Superintendent following oral argument on February 29, 1984. Briefs have been submitted and from a review of the file I now enter these:

FINDINGS OF FACT

1. By letter dated September 9, 1983, the Appellants, Mr. and Mrs. Edward Fryer, wrote to Alice Flager, the Madison County School Superintendent and appealed the decision of the Harrison School District No. 23 to the County Superintendent.

2. The purpose of the appeal was to extend the bus route on the Cherry Creek Route.

3. That Alice Flager, the Madison County Superintendent referred this matter to her hearing officer Donna Allen, of Beaverhead County.

4. That a Notice of Hearing was issued to Mr. and Mrs. Flager by Donna Allen advising them that the Madison County

Transportation Committee would hear the appeal of Mr. and Mrs. Fryer pursuant to Section 20-10-132(d) MCA.

5. Upon advice of counsel Mrs. Allen, the hearing officer ordered a pre-hearing conference pursuant to Rule 10.6.108 ARM.

6. The hearing officer issued Findings of Fact and Conclusions of Law dated November 15, 1983.

7. Mr. and Mrs. Edward Fryer appealed that decision by letter dated December 1, 1983, which was received by my office December 2, 1983.

8. The County Superintendent in her Findings of Fact and Conclusions of Law also made several findings concerning the existing bus routes in Madison County including the one which the Appellants sought to have extended.

9. The Madison County Transportation Committee has not met regarding the Fryer matter nor has any appeal been directed to it.

From the foregoing Facts, I now draw these:

CONCLUSIONS OF LAW

1. The county transportation committee has a duty pursuant to Section 20-10-132 (a), (b), to establish the transportation service areas within the county and to approve, disapprove or adjust school bus routing submitted by the trustees of each district.

2. That the county transportation committee pursuant to Section 20-10-132 (d) has the authority to conduct hearings to

establish the facts of transportation controversies which have been appealed from the decision of the trustees and act on such appeals on the basis of the facts established at such hearing.

3. That the County Superintendent of Schools is a member of the county transportation committee pursuant to Section 20-10-131 MCA.

4. That the county superintendent has no independent authority to approve or disapprove or to conduct hearings with regard to transportation controversies.

5. That it was proper for the county superintendent to dismiss the appeal made to her office of the transportation controversy of the Fryers.

6. That the proper procedure would be for the Fryers to direct their appeal of the district decision to the Madison County Transportation Committee.

7. That the decision of the County Superintendent should be affirmed.

From the foregoing Findings of Fact and Conclusions of Law the following order is made:

ORDER

1. That the decision of the Madison County Superintendent of Schools is affirmed with the expressed direction that it is the duty of the Madison County Transportation Committee to hear transportation controversies.

DATED this _____ day of April, 1984.